

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

Civil Action No. 04-12091-N

FREDERICK H. TARR, III,
Plaintiff

v.

**TOWN OF ROCKPORT, MICHAEL
RACICOT, NICOLA BARLETTA,
CHARLES CLARK, ROXANNE TIERI
and JOANNE WILE,**
Defendant

**AFFIDAVIT OF MICHAEL J. RACICOT TOWN
ADMINISTRATOR OF THE TOWN OF ROCKPORT**

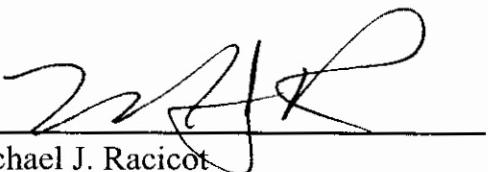
I, Michael J. Racicot, state and aver under oath that the following facts are true to the best of my personal knowledge and belief:

1. My name is Michael J. Racicot. I reside at 30 Hayes Avenue, Beverly, MA 01915. I am an employee of the Town of Rockport, Massachusetts, my position or title being Town Administrator. My office address is Town Office Building, 34 Broadway, Rockport, Massachusetts. At all material times, I am the Keeper of Records for the Board of Selectmen of the Town of Rockport, Massachusetts ("Board").
2. The attached Exhibit A is an attested copy of the Rockport Town Administrator Position Description, including job responsibilities approved July 30, 2002 and in effect at all material times.
3. The Board did not at any time violate the so-called Open Meeting Law, M.G.L. c. §23B in regards to the removal of Frederick H. Tarr III for cause from the Rockport

Conservation Commission.

4. I did not, at any time, refuse, deny or fail to comply with any request by Frederick H. Tarr III to inspect any public records (including, but not limited to, letters or e-mail containing complaints against Mr. Tarr) in regards to the removal of Frederick H. Tarr III for cause from the Rockport Conservation Commission.
5. No staff employee in my office at any time refused, denied or failed to comply with any request by Frederick H. Tarr III to inspect any public records (including, but not limited to, letters or e-mail containing complaints against Mr. Tarr) in regards to the removal of Frederick H. Tarr III for cause from the Rockport Conservation Commission.
6. I did not receive any notice, order or communication from the Essex County District Attorney, the Supervisor of Records, or the Attorney General of the Commonwealth of Massachusetts that Frederick H. Tarr III alleged or complained that the Board violated the so-called Open Meeting Law or that I or any staff employee in my office refused, denied or failed to comply with a request to inspect public records from Frederick H. Tarr III in regards to the removal of Mr. Tarr from the Rockport Conservation Commission.

Signed under the pains and penalties of perjury this 26 day of September 2005:

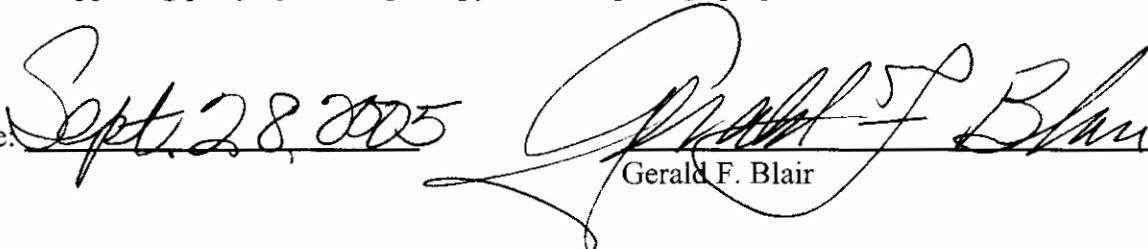


Michael J. Racicot
Town Administrator and
Keeper of Records of the Town of Rockport
Board of Selectmen

CERTIFICATE OF SERVICE

I hereby certify that the Defendants' Supplemental Memorandum in Support of Defendants' Motion for Partial Judgment on the Pleadings Regarding Certiorari Review under F.R.C.P. Rule 12(c) and Affidavit of Michael J. Racicot Town Administrator of the Town of Rockport were served upon John L. Hamilton, Esquire, 10 Lee Park, South Hamilton, MA 01982 and Philip D. Moran, Esquire, Philip D. Moran, P.C., 265 Essex Street, Suite 202, Salem, MA 01970 attorneys for plaintiff/opposing party by mailing a copy of same, postage prepaid and via first class mail.

Date:


Sept. 28, 2005

Gerald F. Blair